

§ 655.1260

(1) Where the Administrator determines that there is a basis for a finding of violation by a facility, and no timely request for hearing is made under § 655.1220; or

(2) Where, after a hearing, the administrative law judge issues a decision and order finding a violation by a facility, and no timely petition for review to the Board is made under §§ 655.1245; or

(3) Where a petition for review is taken from an administrative law judge's decision and the Board either declines within 30 days to entertain the appeal, under § 655.1245(c), or the Board affirms the administrative law judge's determination; or

(4) Where the administrative law judge finds that there was no violation by a facility, and the Board, upon review, issues a decision under § 655.1245(h), holding that a violation was committed by a facility.

(b) The Attorney General, upon receipt of the Administrator's notice under paragraph (a) of this section, shall not approve petitions filed with respect to that employer under section 212(m) of the INA (8 U.S.C. 1182(m)) during a period of at least 12 months from the date of receipt of the Administrator's notification.

(c) ETA, upon receipt of the Administrator's notice under paragraph (a) of this section, shall suspend the employer's Attestation(s) under subparts L and M of this part, and shall not accept for filing any Attestation submitted by the employer under subparts L and M of this part, for a period of 12 months from the date of receipt of the Administrator's notification or for a longer period if one is specified by the Attorney General for visa petitions filed by that employer under section 212(m) of the INA.

§ 655.1260 Can Equal Access to Justice Act attorney fees be awarded?

A proceeding under subpart L or M of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses under the provisions of the Equal Access to Justice Act.

20 CFR Ch. V (4-1-01 Edition)

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Subpart A—Purpose and Scope of Part 656

Sec.

656.1 Purpose and scope of part 656.

656.2 Description of the Immigration and Nationality Act and of the Department of Labor's role thereunder.

656.3 Definitions, for purposes of this part, of terms used in this part.

Subpart B—Occupational Labor Certification Determinations

656.10 Schedule A.

656.11 Schedule B.

Subpart C—Labor Certification Process

656.20 General filing instructions.

656.21 Basic labor certification process.

656.21a Applications for labor certifications for occupations designated for special handling.

656.22 Applications for labor certification for *Schedule A* occupations.

656.23 Applications for labor certifications for *Schedule B* occupations; requests for waivers from *Schedule B*.

656.24 Labor certification determinations.

656.25 Procedures following a labor certification determination.

656.26 Board of Alien Labor Certification Appeals review of denials of labor certification.

656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

656.28 Document transmittal following the grant of a labor certification.

656.29 Filing of a new application after the denial of a labor certification.

656.30 Validity of and invalidation of labor certifications.

656.31 Labor certification applications involving fraud or willful misrepresentation.

656.32 Fees for services and documents.

Subpart D—Determination of Prevailing Wage

656.40 Determination of prevailing wage for labor certification purposes.

Subpart E—Petitioning Process for Federal Research Agencies

656.50 Petitioning process.